

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

21 Cr. 272 (CM) (OTW)

5 GARRY LAFOREST,

6
7 Defendant.

8 Plea

9
10 New York, N.Y.
February 7, 2023
11 11:30 a.m.

12 Before:

13
14 HON. ONA T. WANG,

U.S. Magistrate Judge

15 APPEARANCES

16 DAMIAN WILLIAMS

17 United States Attorney for the
Southern District of New York

18 BY: JUSTIN HORTON

Assistant United States Attorney

19 THOMAS DUNN

20 Attorney for Defendant

1 (Case called)

2 THE DEPUTY CLERK: Please state your appearances for
3 the record.

4 MR. HORTON: Good morning, your Honor.

5 Justin Horton, for the government.

6 MR. DUNN: Good morning, your Honor.

7 Thomas Dunn, for Garry Laforest.

8 THE COURT: Good morning.

9 Good morning, Mr. Laforest.

10 THE DEFENDANT: Good morning.

11 THE COURT: Please be seated.

12 As you heard earlier, I am Magistrate Judge Wang.

13 Mr. Laforest, I just wanted to confirm you are able to
14 speak and understand English, is that right?

15 THE DEFENDANT: Correct.

16 THE COURT: All right. I have before me a Consent to
17 Proceed Before a United States Magistrate On a Felony Plea
18 Allocution that you have signed. What this form says is that,
19 knowing you have the right to have your plea taken by a United
20 States district judge, you are agreeing to have the plea taken
21 by a United States magistrate judge.

22 As a magistrate judge, I have the authority to take
23 your plea with your consent, and you will still be entitled to
24 all of the same rights and protections as if you were before a
25 district judge. Among other things, if you are found guilty,

1 you will be sentenced by a district judge.

2 Did you sign the consent to proceed before a United
3 States magistrate judge voluntarily?

4 THE DEFENDANT: Yes, I did.

5 THE COURT: And before you signed the form did your
6 lawyer explain it to you?

7 THE DEFENDANT: Yes, he did.

8 THE COURT: And do you wish to proceed with your plea
9 before a United States magistrate judge at this time?

10 THE DEFENDANT: Yes.

11 THE COURT: All right. Your consent is accepted.

12 The purpose of this proceeding is to make sure that
13 you understand your rights, to decide whether you're pleading
14 guilty of your own free will, and to make sure you are pleading
15 guilty because you are guilty and not for some other reason.

16 Do you understand that?

17 THE DEFENDANT: Yes.

18 THE COURT: If at any time you don't understand any of
19 my questions or if you want to consult with your attorney, just
20 say so, because it is important that you understand every
21 question before you answer.

22 Before I take your plea, I must ask you a series of
23 questions, and I therefore need to place you under oath.

24 Please raise your right hand.

25 (Defendant sworn)

1 THE COURT: All right. You can put your hand down.

2 Mr. Laforest, do you understand that any statements
3 you make here today under oath may be used against you in a
4 prosecution for perjury or for making false statements if you
5 do not tell the truth?

6 THE DEFENDANT: Yes.

7 THE COURT: All right. Please tell me your full name.

8 THE DEFENDANT: Garry Laforest.

9 THE COURT: And how old are you?

10 THE DEFENDANT: 67.

11 THE COURT: All right. Are you a citizen of the
12 United States?

13 THE DEFENDANT: Yes, I am.

14 THE COURT: All right. Are you able to read and write
15 in English?

16 THE DEFENDANT: Yes.

17 THE COURT: And how far did you go in school?

18 THE DEFENDANT: College.

19 THE COURT: Did you finish college?

20 THE DEFENDANT: No.

21 THE COURT: Are you now or have you recently been
22 under the care of a doctor or psychiatrist for any reason?

23 THE DEFENDANT: No.

24 THE COURT: Have you been treated recently for any
25 mental illness or addiction to narcotic drugs of any kind?

1 THE DEFENDANT: No.

2 THE COURT: As you sit here today, are you under the
3 influence of any mind altering drug or any alcoholic drink?

4 THE DEFENDANT: No.

5 THE COURT: Are you on any medication?

6 THE DEFENDANT: Beside eye medication and high blood
7 pressure.

8 THE COURT: Okay. So you are on eye medication that
9 was prescribed by the eye doctor?

10 THE DEFENDANT: Right.

11 THE COURT: Okay. That eye medication prescribed by
12 the eye doctor, does that affect your ability to understand
13 what is going on today?

14 THE DEFENDANT: No.

15 THE COURT: Okay. Have you been able to understand
16 everything that I have said to you so far?

17 THE DEFENDANT: Yes.

18 THE COURT: And do you feel all right today?

19 THE DEFENDANT: Yes.

20 THE COURT: Have you seen a copy of the indictment in
21 this case?

22 THE DEFENDANT: Yes, I did.

23 MR. DUNN: Your Honor, if I could just interrupt for a
24 second. He also mentioned blood pressure medication. I don't
25 know --

1 THE COURT: I did not hear that. Okay.

2 So you are also on blood pressure medication?

3 THE DEFENDANT: Yes, I am.

4 THE COURT: And does that blood pressure medication
5 affect your ability to understand anything that is going on
6 today?

7 THE DEFENDANT: No.

8 THE COURT: All right.

9 Have you read a copy of the indictment?

10 THE DEFENDANT: Yes, I did.

11 THE COURT: And you understand what it says that you
12 did?

13 THE DEFENDANT: Yes.

14 THE COURT: And have you had a chance to discuss the
15 charges and how you wish to plead with your attorney?

16 THE DEFENDANT: Yes.

17 THE COURT: And are you satisfied with your attorney's
18 representation of you?

19 THE DEFENDANT: Yes.

20 THE COURT: Have you had a full opportunity to discuss
21 this case with him?

22 THE DEFENDANT: Yes, we did.

23 THE COURT: And has he told you the consequence of
24 pleading guilty?

25 THE DEFENDANT: Yes.

1 THE COURT: And are you ready to enter a plea?

2 THE DEFENDANT: Yes.

3 THE COURT: Count Two of the indictment charges you
4 with wire fraud, in violation of 18 United States Code, Section
5 1343.

6 How do you wish to plead? Guilty or not guilty?

7 THE DEFENDANT: Guilty.

8 THE COURT: With respect to the count charging you
9 with wire fraud, I want you to understand the maximum penalty
10 is a prison term of 20 years, a maximum term of supervised
11 release of three years, and a fine of as much as \$250,000 or
12 twice what was made by the criminal activity or twice what
13 someone other than yourself lost because of the criminal
14 activity and a mandatory special assessment of \$100.

15 In addition, the Court must order you to pay
16 restitution to any victims.

17 Do you understand these maximum penalties that I have
18 just described to you?

19 THE DEFENDANT: Yes.

20 THE COURT: I note that the plea agreement also states
21 that you admit the forfeiture allegations as well.

22 Do you understand that?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. Do you also understand that if
25 as part of your sentence you are placed on a term of supervised

1 release and you then violated any of the conditions of that
2 release, you could face an additional term of imprisonment?

3 Do you understand that?

4 THE DEFENDANT: Yes.

5 THE COURT: That means that the district judge can
6 revoke the term of release previously imposed and return you to
7 prison without giving you any credit for time previously served
8 on postrelease supervision.

9 You also told me earlier that you are a citizen of the
10 United States. By law I still must tell you that if in fact
11 you are not a United States citizen a guilty plea means that
12 you may be removed from the United States and denied admission
13 to the United States or denied citizenship in the future.

14 Do you understand this?

15 THE DEFENDANT: Yes.

16 THE COURT: I am now going to explain certain
17 constitutional rights that you have. These are rights that you
18 will be giving up if you enter a guilty plea. Please listen
19 carefully to what I am about to say, and if you do not
20 understand something, please stop me and your attorney and I
21 will explain the issue more fully.

22 Do you understand that you have a right to plead not
23 guilty or, having already pleaded not guilty, persist in that
24 plea and that you have a right to a speedy and public jury
25 trial if you wish?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you understand that if you plead not
3 guilty and go to trial, you would be presumed innocent, and the
4 burden would be on the government to prove your guilt beyond a
5 reasonable doubt?

6 THE DEFENDANT: Yes.

7 THE COURT: That means that you would not have to
8 prove you were innocent, and you could not be convicted unless
9 a jury of 12 people unanimously agreed that you were guilty
10 beyond a reasonable doubt.

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that you would be
13 entitled to be represented by an attorney at all stages, at
14 trial and at every other stage of the proceedings, and if you
15 could not afford to hire one, the Court would provide an
16 attorney to you for free?

17 Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: And do you understand that at such a trial
20 you would be entitled to confront and cross-examine any
21 witnesses called by government to testify against you, that you
22 would be entitled to testify on your own behalf, and that you
23 could call witnesses and present evidence, and that the Court
24 would issue subpoenas at your request to compel witnesses to
25 appear and testify in your defense even if they didn't want to

1 come?

2 Do you understand that?

3 THE DEFENDANT: Yes.

4 THE COURT: And do you understand that at a trial you
5 would not be required to testify against yourself?

6 THE DEFENDANT: Yes.

7 THE COURT: And if you chose not to testify that could
8 not be used against you.

9 Do you understand that if you were convicted at a
10 trial, you have a right to appeal that verdict to a higher
11 court?

12 THE DEFENDANT: Yes.

13 THE COURT: And do you understand that if you enter a
14 guilty plea you give up all of these rights, including your
15 right to a trial, that you will not be able to withdraw this
16 plea, and that the only remaining step in this case will be the
17 sentencing?

18 THE DEFENDANT: Yes.

19 THE COURT: And do you understand that the decision as
20 to the appropriate sentence in your case will be entirely up to
21 the sentencing judge and that they will be limited only by what
22 the law requires?

23 THE DEFENDANT: Yes.

24 THE COURT: And do you understand that even if you are
25 surprised or disappointed by your sentence you will still be

1 bound by your guilty plea?

2 THE DEFENDANT: Yes.

3 THE COURT: And, finally, if you do plead guilty, you
4 are also giving up the right not to incriminate yourself, and I
5 will ask you questions about what you did in order to satisfy
6 myself that you are actually guilty by pleading guilty. You
7 will be admitting your factual as well as legal guilt.

8 Do you understand that?

9 THE DEFENDANT: Yes.

10 THE COURT: And knowing all of this, do you still wish
11 to plead guilty to Count Two of the indictment?

12 THE DEFENDANT: Yes.

13 THE COURT: And have any force or threats been used,
14 either direct or indirect, to influence how you plead today?

15 THE DEFENDANT: No.

16 THE COURT: All right. I have before me a plea
17 agreement dated January 26, 2023, from the U.S. attorney to
18 your attorney containing a plea agreement.

19 Have you read this letter?

20 THE DEFENDANT: Yes.

21 THE COURT: And did you sign it on the last page?

22 THE DEFENDANT: Yes, I did.

23 THE COURT: And before you signed it, did you discuss
24 it with your attorney?

25 THE DEFENDANT: Yes.

1 THE COURT: And did he explain to you all of its terms
2 and conditions?

3 THE DEFENDANT: Yes.

4 THE COURT: Apart from what is contained in this
5 letter, have any promises been made to you in order to get you
6 to plead guilty?

7 THE DEFENDANT: No.

8 THE COURT: In reviewing this plea agreement, I note
9 that it contain an analysis of how part of our law of
10 sentencing known as the sentencing guidelines may impact on any
11 prison term in your case. Based on that analysis, the
12 agreement states that the guidelines sentencing range can be
13 expected to be from 51 to 63 months.

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: And do you understand that the sentencing
17 judge is not bound by the calculation in the letter and that
18 they will be free to do their own calculation which may result
19 in a guideline range that is different from the one in this
20 letter?

21 THE DEFENDANT: Yes.

22 THE COURT: Do you understand that no matter what
23 sentencing range the sentencing judge believes is called for by
24 the guidelines, that range is just one of many factors that the
25 judge will consider in determining your sentence?

1 THE DEFENDANT: Yes.

2 THE COURT: And that the judge has the discretion to
3 give you a prison sentence below or above the range, anywhere
4 up to the maximum sentence of imprisonment of 20 years?

5 Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you also understand that under the
8 terms of this plea agreement, if the judge sentences you to a
9 prison term that is 63 months or less, you are giving up your
10 right to appeal that sentence or to challenge it in any other
11 way such as through a writ of habeas corpus?

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Also, do you understand that the plea
15 agreement says you cannot appeal any fine that is \$200,000 or
16 less and that you cannot appeal any lawful sentence of
17 supervised release?

18 THE DEFENDANT: Yes.

19 THE COURT: Do you also understand that in this letter
20 you are giving up your right to complain if the government
21 withheld evidence from your attorney that would have been
22 helpful to you?

23 THE DEFENDANT: Yes.

24 THE COURT: Is your plea voluntary, that is, made of
25 your own free will?

1 THE DEFENDANT: Yes, it is.

2 THE COURT: Have any threats been made to influence
3 how you plead today?

4 THE DEFENDANT: No.

5 THE COURT: And did you in fact commit the offense
6 that is charged in Count Two of the indictment?

7 THE DEFENDANT: Yes.

8 THE COURT: And before I ask you to tell me what you
9 did, I will ask the government to summarize the elements of the
10 offense and, if they wish, to tell me any evidence they would
11 have offered at trial.

12 MR. HORTON: Thank you, your Honor.

13 To establish a violation of Count Two of the
14 indictment, which charges Title 18 U.S. Code, Section 1343, at
15 trial, the government would be required to prove the following
16 elements beyond a reasonable doubt:

17 First, that there was a scheme or artifice to defraud
18 or obtain on money or property by materially false and
19 fraudulent pretenses, representations, or promises;

20 Second, that the defendant knowingly and willfully
21 participated in the scheme or artifice to defraud with
22 knowledge of its fraudulent nature and with specific intent to
23 defraud; and

24 Third, that in the execution of that scheme, the
25 defendant used or caused the use of interstate wires.

1 The government would also be required to prove venue
2 by a preponderance of the evidence.

3 Had this case gone to trial, the government would have
4 put forth the following evidence: Witness testimony, and
5 records from the victim company regarding Sabitri Laforest's
6 role as company controller; her access to and unauthorized use
7 of the victim's bank account to embezzle \$17.1 million;
8 financial records showing that the \$17.1 million in charges on
9 the defendant's charge card account was paid off by Sabitri
10 Laforest using the victim company's bank account? Evidence
11 from business records and the defendant's e-mail and iCloud
12 accounts showing the charges the defendants, primarily Garry,
13 incurred on the charge card account and paid off using the
14 company's money; witness testimony regarding Garry Laforest's
15 direction to spend money from the charge card at businesses
16 owned by immediate family members; text messages showing the
17 defendants discussing the charge card account and what to do
18 after the scheme unraveled; IP information showing that the
19 charge card bill was paid off from an office in Manhattan; and
20 testimony and records from the charge card provider showing
21 that the charge card provider processes payments to credit
22 cards outside of New York State.

23 Evidence would show that venue is appropriate in the
24 Southern District of New York, because the victim company was
25 based in Manhattan and the charge card bill was paid from an

1 office in Manhattan.

2 THE COURT: All right.

3 Mr. Laforest, please tell me in your own words what
4 you did that makes you guilty of the charge against you.

5 THE DEFENDANT: I participated with my wife in
6 embezzling money from Atlas-Acon and putting it to our account
7 and using the credit card to buy, purchase whatever needs we
8 had by internet and phone, and I also was aware of the
9 illegality of my conduct.

10 THE COURT: All right.

11 Does the government represent that it has sufficient
12 evidence to establish Mr. Laforest's guilt beyond a reasonable
13 doubt?

14 MR. HORTON: Yes, your Honor.

15 THE COURT: Mr. Dunn, do you know of any reason why
16 your client should not be permitted to plead guilty?

17 MR. DUNN: No, your Honor.

18 THE COURT: And does counsel have any doubt as to his
19 client's competence to plead at this time?

20 MR. DUNN: None, your Honor.

21 THE COURT: I wanted to make sure, I think I heard
22 Mr. Laforest say this, but Southern District of New York venue
23 is satisfied by the victim company being in New York City, is
24 that right?

25 THE DEFENDANT: Correct.

1 THE COURT: And, again, I wanted to confirm,
2 Mr. Laforest, did you know that what you were doing was against
3 the law?

4 THE DEFENDANT: Yes, it was against the law.

5 THE COURT: Are there any further questions either
6 side wants me to ask?

7 MS. NEWMAN: No, your Honor.

8 THE COURT: Is there any reason why I should not
9 recommend that the district judge accept this plea?

10 MR. DUNN: No, your Honor.

11 MR. HORTON: No, your Honor.

12 THE COURT: And I will note again that Ms. Laforest,
13 Mr. Laforest's wife, is in the courtroom in the gallery here
14 with her husband.

15 On the basis of the defendant's responses to my
16 questions and my observation of his demeanor, I find that he is
17 fully competent to enter an informed plea at this time. I also
18 conclude that he understands the nature of the charges and the
19 consequences of his plea. And, finally, I am satisfied that
20 his plea is voluntary and that there is a factual basis for it.

21 Accordingly, I recommend that the proffered plea to
22 Count Two of the indictment be accepted.

23 I assume the government will order a copy of the
24 transcript and will submit it to Judge McMahon together with
25 any additional paperwork so that she may act on my

1 recommendation.

2 A presentence investigation report is ordered.

3 Should we set the same control date of May 8?

4 MR. HORTON: Yes, your Honor.

5 MR. DUNN: Yes, your Honor.

6 THE COURT: Okay. A control date of May 8 is set.

7 The prosecution case summary for purposes of the
8 presentence report is to be delivered to the probation
9 department no later than 14 days from today.

10 Mr. Dunn, please make yourself available to be
11 interviewed by the probation department with your client no
12 later than 14 days from today.

13 MR. DUNN: Yes, your Honor.

14 THE COURT: All right.

15 Is there anything further on this matter from either
16 side?

17 MR. HORTON: No, your Honor. Thank you.

18 MR. DUNN: No, your Honor.

19 THE COURT: All right. Thank you very much.

20 We are adjourned.

21 (Adjourned)

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
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3 UNITED STATES OF AMERICA,

4 v.

21 Cr. 272 (CM) (OTW)

5 SABITRI LAFOREST,

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7 Defendant.

8 Plea

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15 APPEARANCES

16 DAMIAN WILLIAMS

17 United States Attorney for the
Southern District of New York

18 BY: JUSTIN HORTON

Assistant United States Attorney

19 DONNA R. NEWMAN

20 Attorney for Defendant
21
22
23
24
25

1 (Case called)

2 THE DEPUTY CLERK: Please state your appearances for
3 the record.

4 MR. HORTON: Good morning, your Honor.

5 Justin Horton, for the government.

6 THE COURT: Good morning.

7 MS. NEWMAN: Good morning, your Honor.

8 Donna R. Newman, on behalf of Sabitri Laforest, who is
9 seated next to me.

10 Thank you, your Honor.

11 THE COURT: All right. Good morning.

12 MS. NEWMAN: We are here to withdraw our previously
13 entered plea of not guilty and to enter a plea of guilty
14 pursuant to a plea agreement. We would be pleading to Count
15 Two of the indictment.

16 THE COURT: Okay. We'll get to all of that.

17 Good morning, Ms. Laforest.

18 THE DEFENDANT: Good morning.

19 THE COURT: Please be seated.

20 All right. I am magistrate Judge Wang.

21 Ms. Laforest, are you able to read and understand
22 English?

23 THE DEFENDANT: Yes.

24 THE COURT: Ms. Newman, please move the microphone
25 closer to Ms. Laforest's mouth and make sure it's on.

1 THE DEFENDANT: That's good.

2 MS. NEWMAN: Okay.

3 THE COURT: All right. I have before me a Consent to
4 Proceed Before a United States Magistrate Judge On a Felony
5 Plea Allocution that you have signed.

6 What this form says is that, knowing that you have the
7 right to have this plea taken by a United States magistrate
8 judge. I mean, I'm sorry, what this form says is that, knowing
9 that you have the right to have the plea taken by a United
10 States district judge, you are agreeing to have the plea taken
11 by a United States magistrate judge.

12 As a magistrate judge I have the authority to take
13 your plea with your consent, and you will still be entitled to
14 all of the same rights and protections as if you were before a
15 district judge. Among other things, if you are found guilty,
16 you will be sentenced by a district judge.

17 Did you sign this consent to proceed before a United
18 States magistrate voluntarily?

19 THE DEFENDANT: Yes.

20 THE COURT: Before you signed the form did your lawyer
21 explain it to you?

22 THE DEFENDANT: Yes.

23 THE COURT: And did you wish to proceed with your plea
24 before a United States magistrate judge?

25 THE DEFENDANT: Yes.

1 THE COURT: The consent is accepted.

2 The purpose of this proceeding is to make sure that
3 you understand your rights, to decide whether you are pleading
4 guilty of your own free will, and to make sure you're pleading
5 guilty because you are guilty and not for some other reason.

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: If at any time you don't understand any of
9 my questions or if you want to consult with your attorney, just
10 say so, because it is important that you understand every
11 question before you answer.

12 Before I take your plea, I must ask you a series of
13 questions, and I therefore need to place you under oath.

14 Please raise your right hand.

15 (Defendant sworn)

16 THE COURT: All right. Put your hand down.

17 Do you understand that any statements you make here
18 today under oath may be used against you in a prosecution for
19 perjury or for making false statements if you do not tell the
20 truth?

21 THE DEFENDANT: Yes.

22 THE COURT: All right.

23 Please tell me your full name.

24 THE DEFENDANT: Sabitri Laforest.

25 THE COURT: And how old are you?

1 THE DEFENDANT: 61.

2 THE COURT: And are you a citizen of the United
3 States?

4 THE DEFENDANT: No.

5 THE COURT: All right.

6 What country are you a citizen of?

7 THE DEFENDANT: Guyana.

8 THE COURT: And are you able to read and write in
9 English?

10 THE DEFENDANT: Yes.

11 THE COURT: And how far did you go in school?

12 THE DEFENDANT: College.

13 THE COURT: Did you finish college?

14 THE DEFENDANT: Yes.

15 THE COURT: Did you finish college in Guyana or in the
16 United States?

17 THE DEFENDANT: In the United States.

18 THE COURT: Okay. And are you now or have you
19 recently been under the care of a doctor or psychiatrist for
20 any reason?

21 THE DEFENDANT: No.

22 THE COURT: Have you been treated recently for any
23 mental illness or addiction to narcotic drugs of any kind?

24 THE DEFENDANT: No.

25 THE COURT: And as you sit here today, are you under

the influence of any mind altering drug or any alcoholic drink?

THE DEFENDANT: No.

THE COURT: And are you on any medication?

THE DEFENDANT: No.

THE COURT: Are you able to understand everything that I have said to you so far?

THE DEFENDANT: Yes.

THE COURT: Do you feel all right today?

THE DEFENDANT: Yes.

THE COURT: Have you seen a copy of the indictment in this case?

THE DEFENDANT: Yes.

THE COURT: And have you read it?

THE DEFENDANT: Yes.

THE COURT: Do you understand what it says that you did?

THE DEFENDANT: Yes.

THE COURT: And have you had a chance to discuss the charges and how you wish to plead with your attorney?

THE DEFENDANT: Yes.

THE COURT: Are you satisfied with your attorney's representation of you?

THE DEFENDANT: Yes.

THE COURT: And have you had a full opportunity to discuss this case with her?

1 THE DEFENDANT: Yes.

2 THE COURT: And has she told you the consequences of
3 pleading guilty?

4 THE DEFENDANT: Yes.

5 THE COURT: And are you ready to enter a plea today?

6 THE DEFENDANT: Yes.

7 THE COURT: Count Two of the indictment charges you
8 with substantive wire fraud.

9 How do you wish to plead to that charge?

10 THE DEFENDANT: Guilty.

11 THE COURT: With respect to the count charging you
12 with wire fraud, I want you to understand that the maximum
13 penalty is a prison term of 20 years, a maximum term of
14 supervised release of three years, and a fine of the greatest
15 of \$250,000 or twice what was made by the criminal activity or
16 twice what someone other than yourself lost because of the
17 criminal activity, a mandatory special assessment of \$100, and
18 in addition the Court must order you to pay restitution to any
19 victims.

20 Do you understand these maximum penalties as I have
21 just described them to you?

22 THE DEFENDANT: Yes.

23 THE COURT: Okay. The plea agreement also states that
24 you are admitting the forfeiture allegations.

25 Do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: Do you also understand that if as part of
3 your sentence you are placed on a term of supervised release
4 and you then violated any of the conditions of that release,
5 you could face an additional term of imprisonment?

6 Do you understand that?

7 THE DEFENDANT: Yes.

8 THE COURT: That means that the district judge can
9 revoke the term of release previously imposed and return you to
10 prison without giving you any credit for time previously served
11 on postrelease supervision.

12 All right. Because you stated that you are not a
13 United States citizen, do you understand that your guilty plea
14 may result in your being removed from the United States, denied
15 citizenship and denied admission to the United States in the
16 future?

17 Do you understand that?

18 THE DEFENDANT: Yes.

19 THE COURT: And do you understand that you're bound by
20 your guilty plea regardless of the immigration consequences of
21 your plea and regardless of any advice you have received from
22 your counsel or others regarding those consequences?

23 THE DEFENDANT: Yes.

24 THE COURT: And have you specifically discussed the
25 immigration consequences with your attorney?

1 THE DEFENDANT: Yes.

2 THE COURT: I am now going to explain certain
3 constitutional rights that you have. These are rights that you
4 will be giving up if you enter a guilty plea. Please listen
5 carefully to what I am about to say, and if you do not
6 understand something, stop me and your attorney and I will
7 explain the issue more fully.

8 Do you understand that you have the right to plead not
9 guilty or, having already so pleaded, to persist in that plea
10 and that you have a right to a speedy and public jury trial if
11 you wish?

12 Do you understand that?

13 THE DEFENDANT: Yes.

14 THE COURT: Do you understand that if you plead not
15 guilty and go to trial, you would be presumed innocent, and the
16 burden would be on the government to prove your guilt beyond a
17 reasonable doubt?

18 Do you understand that?

19 THE DEFENDANT: Yes.

20 THE COURT: That means that you would not have to
21 prove you were innocent, and you could not be convicted unless
22 a jury of 12 people unanimously agreed that you were guilty
23 beyond a reasonable doubt.

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand that you would be

1 entitled to be represented by an attorney at all stages at
2 trial and at every other stage of the proceedings, and if you
3 could not afford to hire one, the Court would provide an
4 attorney to you for free?

5 Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand that at such a trial you
8 would be entitled to confront and cross-examine any witnesses
9 called by the government to testify against you, that you would
10 be entitled to testify on your behalf, that you could call
11 witnesses and present evidence, and that the Court would issue
12 subpoenas at your request to compel witnesses to appear and
13 testify in your defense, even if they didn't want to come?

14 Do you understand that?

15 THE DEFENDANT: Yes.

16 THE COURT: Do you understand that at a trial you
17 would not be required to testify against yourself?

18 THE DEFENDANT: Yes.

19 THE COURT: And if you chose not to testify, that
20 could not be used against you.

21 Do you understand that if you were convicted at a
22 trial, you would have a right to appeal that verdict to a
23 higher court?

24 THE DEFENDANT: Yes.

25 THE COURT: Do you understand that if you enter a

1 guilty plea, you give up all of these rights, including your
2 right to a trial, that you will not be able to withdraw this
3 plea, and that the only remaining step in this case will be the
4 sentencing?

5 THE DEFENDANT: Yes.

6 THE COURT: And do you understand that the decision as
7 to the appropriate sentence in your case will be entirely up to
8 the sentencing judge and that they will be limited only by what
9 the law requires?

10 THE DEFENDANT: Yes.

11 THE COURT: Do you understand that even if you're
12 surprised or disappointed by your sentence, you will still be
13 bound by your guilty plea?

14 THE DEFENDANT: Yes.

15 THE COURT: And, finally, if you do plead guilty, you
16 are also giving up the right not to incriminate yourself, and I
17 will ask you questions about what you did in order to satisfy
18 myself that you are actually guilty. By pleading guilty you
19 will be admitting your factual as well as legal guilt.

20 Do you understand that?

21 THE DEFENDANT: Yes.

22 THE COURT: Knowing all of this, do you still wish to
23 plead guilty to Count Two of the indictment?

24 THE DEFENDANT: Yes.

25 THE COURT: All right. Have any force or threats been

1 used, either direct or indirect, to influence how you plead
2 today?

3 THE DEFENDANT: I'm sorry? I didn't hear that.

4 THE COURT: Have any force or threats been used,
5 either direct or indirect, to influence how you plead today?

6 THE DEFENDANT: No.

7 THE COURT: I have before me a letter dated January
8 26, 2023, from the U.S. attorney to your attorney containing a
9 plea agreement.

10 Have you read this letter?

11 THE DEFENDANT: Yes.

12 THE COURT: Did you sign it on the last page?

13 THE DEFENDANT: Yes.

14 THE COURT: And before you signed it, did you discuss
15 it with your attorney?

16 THE DEFENDANT: Yes.

17 THE COURT: And did she explain to you all of its
18 terms and conditions?

19 THE DEFENDANT: Yes.

20 THE COURT: Apart from what is contained in this
21 letter, have any promises been made to you in order to get you
22 to plead guilty?

23 THE DEFENDANT: No.

24 THE COURT: In reviewing the plea agreement, I note
25 that it contains an analysis of how part of our law of

1 sentencing known as the sentencing guidelines may impact on any
2 prison term in your case. Based on that analysis, the
3 agreement states that the guidelines sentencing range can be
4 expected to be from 63 to 78 months' imprisonment.

5 Do you understand that?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you understand the sentencing judge is
8 not bound by the calculation in the letter and that they will
9 be free to do their own calculation, which may result in a
10 guideline range that is different from the one in the letter?

11 THE DEFENDANT: Yes.

12 THE COURT: Do you understand that no matter what
13 sentencing range the sentencing judge believes is called for by
14 the guidelines, that range is just one of many factors that the
15 judge will consider in determining your sentence and that the
16 judge has discretion to give you a prison sentence below or
17 above the range anywhere up to the maximum sentence of
18 imprisonment of 20 years?

19 THE DEFENDANT: Yes.

20 THE COURT: Do you also understand that under the
21 terms of this plea agreement, if the judge sentences you to a
22 prison term that is 78 months or less, you are giving up your
23 right to appeal that sentence or to challenge it in any other
24 way such as through a writ of habeas corpus?

25 Do you understand that?

1 THE DEFENDANT: Yes.

2 THE COURT: Also, do you understand that the plea
3 agreement says that you cannot appeal any fine of \$250,000 or
4 less and that you cannot appeal any lawful sentence of
5 supervised release?

6 THE DEFENDANT: Yes.

7 THE COURT: Do you also understand that in this letter
8 you are giving up your right to complain if the government
9 withheld evidence from your attorney that would have been
10 helpful to you?

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: All right. Is your plea voluntary, that
14 is, made of your own free will?

15 THE DEFENDANT: Yes.

16 THE COURT: And have any threats been made to
17 influence how you plead today?

18 THE DEFENDANT: No.

19 THE COURT: Did you in fact commit the offense that is
20 charged in Count Two of the indictment?

21 THE DEFENDANT: Yes.

22 THE COURT: Before I ask you to tell me what you did,
23 I will ask the government to summarize the elements of the
24 offense and, if they wish, to tell me any evidence that they
25 would have offered at trial.

1 THE DEFENDANT: Thank you, your Honor.

2 In order to establish a violation of Count Two of the
3 indictment, which charges a violation of Title 18, U.S. Code,
4 Section 1343, at trial the government would be required to
5 prove the following elements beyond a reasonable doubt:

6 First, that there was a scheme or artifice to defraud
7 or obtain money or property by materially false and fraudulent
8 pretenses, representations, or promises;

9 Second, that the defendant knowingly and willfully
10 participated in the scheme or artifice to defraud with
11 knowledge of its fraudulent nature and with specific intent to
12 defraud; and,

13 Third, that in the execution of that scheme, the
14 defendant used or caused the use of interstate wires.

15 The government would also be required to prove venue
16 in this district by a preponderance of the evidence.

17 I believe your Honor asked for a proffer of the
18 evidence at this time.

19 THE COURT: Yes.

20 MR. HORTON: I am happy to do that.

21 Had this matter gone to trial, the government would
22 have relied on the following evidence, not exclusively, but
23 including witness testimony and records from the victim company
24 regarding the defendant's role as the company's controller; her
25 access to and unauthorized use of the victim's bank account to

embezzle \$17.1 million; financial records showing that the \$17.1 million in charges on the defendant's charge card account was paid off by defendant using the victim company's bank account; evidence from business records and the defendant's e-mail and iCloud accounts showing the charge card charges the defendants incurred on the charge card account and paid off using the company's money; text messages showing the defendants discussing the charge cards account and what to do after the scheme unraveled; IP information showing the Sabitri Laforest paying off the charge card bill from her office in Manhattan; and, finally, testimony and records from the charge card provider showing that the charge card provider processes payments to its charge cards outside of New York State.

The government would also prove at trial that venue is appropriate in the Southern District of New York because the victim company was based in Manhattan and the defendant paid the charge card bill from her office in Manhattan.

THE COURT: All right. Ms. Laforest, please tell me in your own words what you did that makes you guilty of the charge against you.

THE DEFENDANT: Okay. On or before the year 2013 to 2020, I used the company's money, Atlas-Acon's bank account to pay my personal credit cards through telephone calling in the payments or internet. I knew that it was illegal and I continued doing it, and it was done in the company located in

1 Manhattan.

2 THE COURT: All right. And I think that I saw that
3 maybe you were reading from a statement and had a little bit of
4 guidance from your counsel. I am sure that you and your
5 counsel wanted to make sure that the statements were exact and
6 correct, but I want to ask you, you really did those things you
7 just told me about?

8 THE DEFENDANT: Yes.

9 THE COURT: And does the government represent that it
10 has sufficient evidence to establish defendant's guilt beyond a
11 reasonable doubt?

12 MR. HORTON: Yes, your Honor.

13 THE COURT: And, Ms. Newman, do you know of any reason
14 why your client should not be permitted to plead guilty?

15 MS. NEWMAN: No, I do not.

16 THE COURT: And does counsel have any doubt as to the
17 defendant's competence to plead at this time?

18 MS. NEWMAN: No, I do not.

19 THE COURT: All right. I think I heard Ms. Laforest
20 say that the defendant -- I mean the victim company was in
21 Manhattan, and that would then satisfy venue in the Southern
22 District of New York.

23 Is that right?

24 MS. NEWMAN: That's correct.

25 THE COURT: Again, I think I heard this, but I wanted

to confirm, Ms. Laforest, that you knew that what you were doing was against the law?

THE DEFENDANT: Yes.

THE COURT: Are there further questions that either side wants me to ask?

MR. HORTON: No, your Honor.

MS. NEWMAN: No, your Honor.

THE COURT: Is there any reason why I should not recommend that the district judge accept this plea?

MR. HORTON: No, your Honor.

MS. NEWMAN: No, your Honor.

THE COURT: Normally, this is the point where I recognize for the district judge that there is family in support. I do note that I understand it is Mr. Laforest, Ms. Laforest's husband, who will be entering his own plea after this proceeding.

On the basis of the defendant's responses to my questions and my observation of her demeanor, I find that she is fully competent to enter an informed plea at this time. I also conclude that she understands the nature of the charge and the consequences of her plea. And, finally, I am satisfied that her plea is voluntary and that there is a factual basis for it.

Accordingly, I recommend that the proffered plea to Count Two of the indictment be accepted.

1 I assume the government will order a copy of the
2 transcript and will submit it to Judge McMahon together with
3 any additional paperwork so is that she can act on my
4 recommendation.

5 A presentence investigation report is ordered.

6 Has Judge McMahon set a sentencing date, or should we
7 be set a control date right now?

8 MR. HORTON: I don't believe there is, so I think it
9 would be appropriate to set a control date, your Honor.

10 THE COURT: Okay. A control date for 90 days out?

11 MR. HORTON: Yes, please.

12 MS. NEWMAN: Yes, please.

13 THE COURT: All right.

14 So the control date will be May 8.

15 MS. NEWMAN: If I may, your Honor, also request a copy
16 of the plea transcript?

17 THE COURT: Yes.

18 MS. NEWMAN: Thank you.

19 I am CJA, I should have said. I'm sorry.

20 THE COURT: Okay. The prosecution case summary for
21 purposes of the presentence report is to be delivered to the
22 probation department no later than 14 days from today.

23 Defense counsel, you should make yourself available to
24 be interviewed by the probation department with your client no
25 later than 14 days from today.

1 Is there anything further on this matter from either
2 side?

3 MR. HORTON: No, your Honor. Thank you.

4 MS. NEWMAN: No, your Honor. Thank you.

5 THE COURT: All right. Thank you very much.

6 We will take a brief adjournment.

7 MS. NEWMAN: Thank you.

8 THE COURT: Thank you.

9 (Adjourned)

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

21 Cr. 272 (VF) (CM)

5 SANJAY LAFOREST,

6 Defendant.

Plea

7 -----x

8 New York, N.Y.
9 February 21, 2023
10:40 a.m.

10 Before:

11 HON. VALERIE FIGUEREDO,

12
13 U.S. Magistrate Judge

14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
17 Southern District of New York

BY: JUSTIN HORTON

17 Assistant United States Attorney

18 GOLDBERG & KAPLAN, LLP

19 Attorneys for Defendant Sanjay Laforest

BY: BRIAN I. KAPLAN

1 (Case called)

2 THE DEPUTY CLERK: Attorneys, will you please state
3 your appearance for the record starting with the government.

4 MR. HORTON: Good morning, your Honor. Justin Horton
5 for the government. Brian Kaplan for Mr. Sanjay Laforest.
6 Good morning, your Honor.

7 THE COURT: Good morning.

8 Good morning, Mr. Laforest.

9 THE DEFENDANT: Good morning.

10 THE COURT: Mr. Laforest, just to confirm, you're able
11 to speak and understand English?

12 THE DEFENDANT: Yes.

13 THE COURT: And I understand we're here for a change
14 of plea.

15 Is that correct, Mr. Kaplan?

16 MR. KAPLAN: It is correct. There was already a plea
17 agreement that was executed by the parties.

18 THE COURT: Mr. Laforest, I have before me a consent
19 to proceed before a United States magistrate judge on a felony
20 plea allocution that you have signed.

21 What this form says is that you know you have the
22 right to have your plea taken by a United States district judge
23 but you are agreeing to have it taken by a United States
24 magistrate judge, which is what I am.

25 As a magistrate judge, I have the authority to take

your plea, with your consent, and you will still be entitled to all the same rights and protections as if you were before a district judge. Among other things, if you are found guilty, you will be sentenced by a district judge.

Did you sign the consent to proceed before a United States magistrate judge voluntarily?

THE DEFENDANT: Yes, your Honor.

THE COURT: Before you signed the form, did your lawyer explain it to you?

THE DEFENDANT: Yes, your Honor.

THE COURT: Do you wish to proceed with your plea before a United States magistrate judge?

THE DEFENDANT: Yes, your Honor.

THE COURT: Your consent is accepted, and I'm signing the form.

Mr. Laforest, I've been informed that you wish to change your plea and to enter a plea of guilty as to Count Two of the indictment in this action.

Is that correct?

THE DEFENDANT: Yes, your Honor.

THE COURT: Before deciding whether to accept your guilty plea, I am going to ask you certain questions. It is very important that you answer these questions honestly and completely.

The purpose of these proceedings is to make sure that

1 you understand your rights, to decide whether you are pleading
2 guilty of your own free will, and to make sure that you are
3 pleading guilty because you are guilty and not for some other
4 reason.

5 Do you understand what I'm saying?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: If you don't understand any of the
8 questions or if you want at any time to consult with your
9 lawyer, please say so because it is important that you
10 understand every question before you answer.

11 Can you please raise your right hand.

12 (Defendant sworn)

13 THE COURT: Do you understand that you are now under
14 oath and that if you answer any of my questions falsely, you
15 may be prosecuted for perjury based on any false answers?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Mr. Laforest, can you give me your full
18 name, please.

19 THE DEFENDANT: Sanjay Laforest.

20 THE COURT: How old are you?

21 THE DEFENDANT: I am 40 years old.

22 THE COURT: Are you a United States citizen?

23 THE DEFENDANT: Yes, I am.

24 THE COURT: How far did you go in school?

25 THE DEFENDANT: I went to third year in college.

1 THE COURT: Are you currently or have you recently
2 been under the care of a doctor, a psychiatrist, or a
3 psychologist for any reason?

4 THE DEFENDANT: No, I have not.

5 THE COURT: I'm just going to confirm.

6 You said you had proceeded through your third year in
7 college.

8 So is it correct to say that you can read and write in
9 English?

10 THE DEFENDANT: Yes. It is correct.

11 THE COURT: Do you have any condition that affects
12 your ability to see or hear?

13 THE DEFENDANT: No, I don't.

14 THE COURT: Any condition that affects your ability to
15 understand or make judgments or decision on your own behalf?

16 THE DEFENDANT: No, I do not.

17 THE COURT: In the last 24 hours, have you taken any
18 drugs, medicine, or pills that affect your mental processes or
19 consumed any alcohol?

20 THE DEFENDANT: No, I have not.

21 THE COURT: Is your mind clear today?

22 THE DEFENDANT: Yes. My mind is clear.

23 THE COURT: Do you understand what is happening in
24 this proceeding?

25 THE DEFENDANT: Yes, I do.

1 THE COURT: Does either counsel have any objections to
2 Mr. Laforest's competence to plead at this time?

3 MR. HORTON: No, your Honor.

4 MR. KAPLAN: Nor do I, your Honor.

5 THE COURT: Mr. Laforest, have you received a copy of
6 the indictment that contains the charges against you?

7 THE DEFENDANT: Yes, I have, your Honor.

8 THE COURT: Have you read it?

9 THE DEFENDANT: Yes, I have, your Honor.

10 THE COURT: Do you want me to read it to you?

11 THE DEFENDANT: No, I do not, your Honor.

12 THE COURT: Do you understand what it says you did?

13 THE DEFENDANT: Yes, I do, your Honor.

14 THE COURT: Have you had time to talk to your attorney
15 about these charges and about how you wish to plead?

16 THE DEFENDANT: Yes, I have, your Honor.

17 THE COURT: Has your attorney told you the
18 consequences of pleading guilty?

19 THE DEFENDANT: Yes, he has, your Honor.

20 THE COURT: Are you satisfied with your attorney's
21 representation of you?

22 THE DEFENDANT: Yes, I am, your Honor.

23 THE COURT: I am now going to explain certain
24 constitutional rights that you have. These are rights that you
25 will be giving up if you enter a guilty plea. Please listen

carefully to what I am about to say. If you do not understand something, stop me. And your attorney or I will explain the issue more fully.

Under the Constitution and the laws of the United States, you have right to plead not guilty to the charges contained in the indictment.

Do you understand that?

THE DEFENDANT: Yes, I do, your Honor.

THE COURT: If you pled not guilty, you would be entitled under the Constitution to a speedy and public trial by a jury of those charges. At that trial, you would be presumed innocent, and the government would be required to prove you guilty beyond a reasonable doubt before you could be found guilty. You could not be convicted unless a jury of 12 people agreed unanimously that you were guilty beyond a reasonable doubt.

Do you understand that?

THE DEFENDANT: Yes, I do, your Honor.

THE COURT: If you decided to go to trial, at that trial and at every stage of your case, you would have the right to be represented by an attorney. And if you could not afford one, an attorney would be appointed to represent you at the government's expense.

Even if you retain private defense counsel, if you run out of money, an attorney would be appointed to continue to

1 represent you. You would be entitled to an attorney all the
2 way through trial and not just for a guilty plea. So your
3 decision to plead guilty should not depend on whether you can
4 afford to hire an attorney.

5 Do you understand that?

6 THE DEFENDANT: Yes, I do, your Honor.

7 THE COURT: During a trial, the witnesses for the
8 prosecution would have to come to court and testify in your
9 presence where you could see and hear them and your lawyer
10 could cross-examine those witnesses. And if you wanted, your
11 lawyer could offer evidence on your behalf. You would be able
12 to use the Court's power to compel witnesses to come to court
13 to testify, even if they did not want to come.

14 Do you understand that?

15 THE DEFENDANT: Yes, I do, your Honor.

16 THE COURT: At a trial, you would have the right to
17 testify in your own defense if you wanted to. But you would
18 also have the right not to testify. If you chose not to
19 testify, that could not be used against you in any way. No
20 inference or suggestion of guilt would be permitted from the
21 fact that you did not testify.

22 Do you understand that?

23 THE DEFENDANT: Yes, I do, your Honor.

24 THE COURT: If you were convicted at trial, you would
25 have the right to appeal that verdict to a higher court.

1 Do you understand that?

2 THE DEFENDANT: Yes, I do, your Honor.

3 THE COURT: As I said before, you have the right to
4 plead not guilty. Even right now, even as you sit here today
5 for purposes of entering a guilty plea, you have the right to
6 change your mind, persist in your not guilty plea, and go to a
7 trial.

8 But if you do plead guilty and if the court accepts
9 your plea, you will give up the right to a trial and all other
10 rights that go with it that I just described. If you plead
11 guilty, there will be no trial. All that will remain to be
12 done will be to impose a sentence.

13 You and the government will have a chance to make
14 arguments about what sentence you should get. But there will
15 not be any further trial to determine whether you are guilty or
16 not guilty of the charges to which you pled guilty.

17 Do you understand that?

18 THE DEFENDANT: Yes, I do, your Honor.

19 THE COURT: Do you understand that the decision that
20 is appropriate in your case will be entirely up to the
21 sentencing judge and that the judge will be limited only by
22 what the law requires. This means that even if you were
23 surprised or disappointed by your sentence, you still will be
24 bound by your guilty plea.

25 Do you understand that?

1 THE DEFENDANT: Yes, I do, your Honor.

2 THE COURT: Finally, if you do plead guilty, you are
3 giving up your right not to incriminate yourself, and I will
4 ask you questions about what you did to satisfy myself that you
5 are actually guilty. By pleading guilty, you will be admitting
6 your factual as well as your legal guilt.

7 Do you understand that?

8 THE DEFENDANT: Yes, I do, your Honor.

9 THE COURT: Count Two of the indictment charges that
10 you committed wire fraud in violation of Title 18 Section 1343
11 of the United States Code.

12 I'm going to ask Mr. Horton to state the elements of
13 the charge.

14 Mr. Laforest, the elements are the things that the
15 government would have to prove beyond a reasonable doubt if you
16 went to trial.

17 MR. HORTON: Thank you, your Honor.

18 To establish a violation of Title 18 U.S. Code Section
19 1343 at trial, the government would be required to prove the
20 following elements beyond a reasonable doubt:

21 First, that there was a scheme or artifice to defraud
22 or obtain money or property by materially false and fraudulent
23 pretenses, representations, or promises;

24 Second, that the defendant knowingly and willfully
25 participated in the scheme or artifice to defraud with

knowledge of its fraudulent nature and with specific intent to defraud or, in the alternative, that the defendant deliberately closed his eyes to what would have otherwise been obvious to him. That is, he acted with a conscious purpose to avoid learning a particular fact or facts; and

Third, that in the execution of that scheme, the defendant used or caused the use of interstate wires. The government would also be required to prove venue in the Southern District of New York by a preponderance of the evidence.

THE COURT: Mr. Laforest, I'm now going to tell you the maximum possible penalty for that crime. The maximum means the most that could possibly be imposed. It does not mean that is what you necessarily will receive. But by pleading guilty, you are exposing yourself to the possibility of any combination of punishments up to the maximum that I am about to describe.

Do you understand that?

THE DEFENDANT: Yes, your Honor.

THE COURT: The maximum term of imprisonment for the crime charged in Count Two of the indictment is 20 years which could be followed by up to three years of supervised release.

If your sentence includes supervised release, you will be subject to supervision by the probation department after your release from prison. If you violate any condition of that release, the court can revoke the terms of supervised release

1 previously imposed and return you to prison without giving you
2 any credit for time previously served on post-release
3 supervision.

4 In addition to these restrictions on your liberty, the
5 maximum possible punishment for the crime charged in Count Two
6 also includes financial penalties. The maximum allowable fine
7 is \$250,000 or twice the profits of the criminal activity or
8 twice what someone, other than yourself, lost because of the
9 criminal activity, whichever is greater. You can also be
10 required to pay restitution to any victims of the crime in an
11 amount that the court decides is required to compensate them
12 for any injuries.

13 In addition, by pleading guilty, you will admit to the
14 forfeiture allegations in the indictment and agree to forfeit
15 any property within the scope of 18 U.S. Code Section 981 and
16 28, U.S. Code Section 2461.

17 I'm also required by law to tell you that there is an
18 additional special assessment or fine of \$100 that is required
19 to be imposed on each count of conviction.

20 Mr. Laforest, you told me a few minutes ago that you
21 are a United States citizen. The reason I asked that question
22 was that if you were not a citizen, your guilty plea would
23 likely have adverse consequences for your ability to remain in
24 or return to the United States, including removal, deportation,
25 denial of citizenship, and denial of admission to the

1 United States in the future.

2 Your removal or deportation could be mandatory, and if
3 that did happen, you would still be bound by your guilty plea.
4 That is, you would not be able to withdraw it, regardless of
5 any advice you received from your attorney or others regarding
6 the immigration consequences of your plea.

7 Do you understand that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Has anyone threatened you or coerced you
10 in any way in an effort to get you to plead guilty?

11 THE DEFENDANT: No, they have not, your Honor.

12 THE COURT: I understand that there is a written plea
13 agreement between you and the government. It's contained in a
14 letter dated February 1, 2023, addressed to your attorney,
15 Mr. Kaplan, which appears to have your signature on the last
16 page.

17 Did you sign this plea agreement?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Did you read it before you signed it?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Did you discuss it with your attorney?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you understand the terms of the
24 agreement?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Has anyone promised you or offered you
2 anything in order to get you to plead guilty, other than what
3 is in this plea agreement?

4 THE DEFENDANT: No, your Honor.

5 THE COURT: It appears that you and the government
6 have reached agreement regarding the appropriate calculation of
7 your sentence under a part of our law known as the sentencing
8 guidelines.

9 Is that correct?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: And that agreement is that the appropriate
12 guideline sentencing range is from 21 to 27 months and the
13 appropriate monetary fine is from \$10,000 to \$95,000. Under
14 this agreement, neither you nor the government is allowed to
15 argue to the sentencing judge for a calculation that is
16 different than the one in this agreement.

17 Do you understand that in this agreement, you have
18 limited your right to appeal from any sentence that may be
19 imposed?

20 Specifically, do you understand that as long as
21 Judge McMahon sentences you to a prison term of no longer than
22 27 months, any lawful sentence of supervised release, and a
23 fine no greater than \$95,000, you are giving up your right to
24 challenge your sentence, whether by direct appeal, writ of
25 habeas corpus, or otherwise?

1 Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand that under the terms of
4 the plea agreement, you are waiving any and all right to
5 withdraw your plea or to attack your conviction or sentence,
6 either on direct appeal or collaterally, on the ground that the
7 government has failed to produce any discovery material, other
8 than information establishing your factual innocence, including
9 Jencks Act material, material pursuant to *Brady v. Maryland*,
10 and impeachment material pursuant to *Giglio v. The United*
11 *States* that has not already been produced as of the date of the
12 signing of your plea agreement? That is, you will not be able
13 to complain about that or withdraw your guilty plea on that
14 basis.

15 Do you understand that?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Mr. Laforest, do you understand that the
18 term of this plea agreement, including any calculation related
19 to sentence, are not binding on the sentencing judge?

20 The sentencing judge may reject those calculations and
21 could impose a more severe sentence than you expect without
22 permitting you to withdraw your plea of guilty. The sentencing
23 judge is required to make her own independent calculation of
24 the appropriate sentencing range under the sentencing
25 guidelines and will also have the discretion to give you a

1 sentence below or above that range up to the maximum sentence
2 that I told you about earlier.

3 In addition to the guidelines and possible departures
4 from those guidelines, the sentencing judge will also consider
5 the factors set forth in 18 U.S. Code Section 3553(a). In
6 other words, the sentencing judge will pronounce whatever
7 sentence she believes is the appropriate sentence for you, even
8 if that sentence is different from the one set forth in your
9 plea agreement.

10 Do you understand that?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: The Court will also consider a presentence
13 report prepared by the probation department in advance of your
14 sentencing. Before you are sentenced, you and the government
15 will have an opportunity to challenge the facts reported by the
16 probation officer.

17 Do you understand that there is no parole in the
18 federal system? That means that if you are sentenced to
19 prison, you will not be released on parole.

20 Do you understand that?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Before I go on, I'm going to ask either
23 counsel if there is any other provision of the plea agreement
24 that you would like me to go over.

25 MR. HORTON: No, your Honor. Thank you.

1 MR. KAPLAN: No. Thank you, your Honor.

2 THE COURT: Mr. Laforest, aside from what is in the
3 plea agreement itself, have any promises been made to you to
4 influence you to plead guilty?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: Have any promises been made to you
7 concerning the actual sentence you will receive?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: Now that you've been advised of the charge
10 against you, the possible penalties you face, and the rights
11 you are giving up, is it still your intention to plead guilty
12 to Count Two of the indictment?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Is your plea voluntary and made of your
15 own free will?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Mr. Laforest, with respect to Count Two,
18 how do you plead? Guilty or not guilty?

19 THE DEFENDANT: Guilty, your Honor.

20 THE COURT: Can you tell me in your own words what you
21 did that makes you guilty of that crime.

22 THE DEFENDANT: From 2023 to 2020, I participated in
23 an embezzlement scheme that I willfully and consciously
24 disregarded numerous red flags which indicated my mother was
25 stealing funds from the electric corporation she worked for.

1 In furtherance of the embezzlement scheme, I sent
2 emails and made phone calls directing others involved in the
3 scheme to use money that was stolen from the company to make
4 purchases for the restaurant equipment and other charges with
5 respect to my restaurants which I owned here in Manhattan.

6 THE COURT: Did your attorney help you prepare the
7 testimony you just gave?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: And do you adopt those words as your own?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Is everything you just told me true?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Did you know at the time that you did
14 these acts that what you were doing was wrong?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Mr. Horton, do you believe there is a
17 sufficient factual predicate for a guilty plea?

18 MR. HORTON: Yes, your Honor, with one point of
19 clarification. I apologize if your Honor went over this
20 already. If the Court could ask the defendant to admit the
21 forfeiture allegations in the indictment.

22 THE COURT: Mr. Laforest, under the terms of your plea
23 agreement, you are admitting the forfeiture allegations with
24 respect to Count Two of the indictment. And that means that
25 you agree to forfeit to the United States, pursuant to Title 18

1 U.S. Code Section 981(a)(1)(C) and Title 28, U.S. Code Section
2 2461(c), a sum of money to be determined by the court
3 representing proceeds traceable to the commission of said
4 offense and all right, title, and interest of yourself in the
5 specific property listed in the indictment.

6 Do you understand that?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Mr. Horton, is there anything else you
9 want him to acknowledge on the record?

10 MR. HORTON: No. Thank you, your Honor.

11 THE COURT: Does the government represent that it has
12 sufficient evidence to establish guilt beyond a reasonable
13 doubt at trial?

14 MR. HORTON: Yes, your Honor. I'm happy to proffer
15 that evidence now.

16 THE COURT: Yes, please.

17 MR. HORTON: Had this matter gone to trial, the
18 government would have introduced or sought to introduce the
19 following evidence. This is not an exhaustive list:

20 Witness testimony and records from the victim company
21 regarding Sabitri Laforest's role as the company's controller;
22 her access to and her unauthorized use of the victim's bank
23 account to embezzle \$17.1 million; financial records showing
24 that \$17.1 million in charges over seven years on a charge card
25 account opened by Tatiana Laforest was paid off using the

1 victim company's bank account; evidence that Tatiana and Sanjay
2 Laforest are the adult children of Sabitri and Garry Laforest
3 who are also cardholders on Tatiana's charge card account;
4 evidence from business records and the defendant's email and
5 iCloud accounts showing the charges the defendants incurred on
6 the charge card account and paid off using the victim company's
7 money, including millions of dollars charged to Sanjay's
8 restaurants which Tatiana helped process; as well as using the
9 charge card in question to make payments for the restaurant's
10 rent and food expenses; evidence from the defendant's email
11 accounts and credit card companies that Sanjay and Tatiana
12 Laforest lied to multiple credit card processing companies
13 about the nature of the charges incurred using the family's
14 charge card account at the restaurants by creating false
15 invoices so that the credit card companies would process the
16 transactions and send the cash to Sanjay Laforest's business
17 accounts; evidence that Sanjay Laforest also paid his personal
18 rent at a luxury apartment near Hudson Yards; travel expenses
19 and other personal expenses using Tatiana's charge card;
20 evidence that Sanjay Laforest deleted incriminating emails
21 between himself, Tatiana Laforest, and the credit card
22 processing companies from Sanjay Laforest's Gmail account; IP
23 information showing Sabitri Laforest paying off the charge card
24 bill from her office in Manhattan; and testimony and records
25 from the charge card company showing that the charge card

1 company processes its payments to its charge cards outside of
2 New York state.

3 The government would also introduce evidence showing
4 that venue is appropriate in the Southern District of New York
5 because the victim company was based in Manhattan, Sanjay's
6 restaurants were located in Manhattan, and Sabitri Laforest
7 paid the charge card bill from her office in Manhattan.

8 THE COURT: Thank you.

9 Mr. Laforest, on the basis of your responses to my
10 questions and my observations of your demeanor, I find that you
11 are competent to enter a guilty plea. I am satisfied that you
12 understand your rights, including your right to go to trial;
13 that you are aware of the consequences of your plea, including
14 the sentence that may be imposed; and that you are voluntarily
15 pleading guilty; and that you have admitted that you are guilty
16 as charged in Count Two of the indictment. For these reasons,
17 I will recommend that Judge McMahon accept your plea.

18 Mr. Horton, I assume the government will order a copy
19 of the transcript and will submit it to Judge McMahon, together
20 with any paperwork, so that she may act on my recommendation.

21 MR. HORTON: Yes, your Honor.

22 THE COURT: Has Judge McMahon set a sentencing date?

23 MR. HORTON: She has not yet set a sentencing date,
24 your Honor.

25 THE COURT: And Mr. Laforest is out on bail?

1 MR. HORTON: Yes. That's right.

2 THE COURT: I'm going to set a control date for six
3 months, which is Monday, August 21, 2023, for a sentencing
4 date. I'll direct that the presentence report be prepared.

5 Mr. Horton, can you deliver the case summary for
6 purposes of the presentence report to the probation department
7 within 14 days?

8 MR. HORTON: Yes, your Honor.

9 THE COURT: Mr. Kaplan, will you be available to be
10 interviewed with Mr. Laforest by the probation department
11 within 14 days?

12 MR. KAPLAN: Yes. And I wish to be present.

13 THE COURT: Thank you.

14 Are there any objections to continuing the present
15 bail?

16 MR. HORTON: No, your Honor.

17 THE COURT: Mr. Laforest, all of the conditions on
18 which you were released up until now continue to apply, and a
19 violation of those conditions can have serious consequences,
20 including revocation of bail and prosecution for bail jumping.

21 Do you understand that?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Is there anything further on this matter
24 from either side?

25 MR. HORTON: No. Thank you, your Honor.

1 MR. KAPLAN: Nothing else from me.

2 THE COURT: Thank you very much.

3 (Adjourned)

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

21 Cr. 272 (VF) (CM)

5 TATIANA LAFOREST,

6 Defendant.

Plea

7 -----x
8 New York, N.Y.
9 February 21, 2023
11:35 a.m.

10 Before:

11 HON. VALERIE FIGUEREDO,

12
13 U.S. Magistrate Judge

14 APPEARANCES

15 DAMIAN WILLIAMS

16 United States Attorney for the
17 Southern District of New York

BY: JUSTIN HORTON

Assistant United States Attorney

18 GOLDBERG & KAPLAN, LLP

Attorneys for Defendant Tatiana Laforest

19 BY: BARRY R. GOLDBERG
20
21
22
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24
25

1 (Case called)

2 THE DEPUTY CLERK: Government, can you please make
3 your appearance for the record.

4 MR. HORTON: Good morning. Justin Horton for the
5 government.

6 THE COURT: Good morning.

7 MR. GOLDBERG: For Ms. Laforest, it's Barry Goldberg.

8 THE COURT: Good morning, Mr. Goldberg.

9 Good morning, Ms. Laforest.

10 THE DEFENDANT: Good morning, your Honor.

11 THE COURT: Ms. Laforest, I just want to confirm.

12 Are you able to speak and understand English?

13 THE DEFENDANT: Yes.

14 THE COURT: Mr. Goldberg, I understand we are here for
15 a change of plea.

16 Is that correct?

17 MR. GOLDBERG: Yes, your Honor.

18 THE COURT: Ms. Laforest, I have before me a consent
19 to proceed before a United States magistrate judge on a felony
20 plea allocution. It's a form that you have signed.

21 What this form says is that you have the right to have
22 your plea taken by a United States district judge but you are
23 agreeing to have the plea taken by a United States magistrate
24 judge, which is what I am.

25 As a magistrate judge, I have the authority to take

1 your plea, with your consent, and you will be entitled to all
2 of the same rights and protections as if you were before a
3 district judge. Among other things, if you are found guilty,
4 you will be sentenced by a district judge.

5 Did you sign the consent to proceed before a United
6 States magistrate judge form voluntarily?

7 THE DEFENDANT: Yes, I did.

8 THE COURT: Before you signed the form, did your
9 attorney explain it to you?

10 THE DEFENDANT: Yes, he did.

11 THE COURT: Do you wish to proceed with your plea
12 before a United States magistrate judge?

13 THE DEFENDANT: Yes, I do.

14 THE COURT: Your consent is accepted, and I'm signing
15 the form.

16 Ms. Laforest, I've been informed that you wish to
17 change your plea and to enter a plea of guilty to Count Two of
18 the indictment.

19 Is that correct?

20 THE DEFENDANT: Yes.

21 THE COURT: Before deciding whether to accept your
22 guilty plea, I'm going to ask you certain questions. It is
23 very important that you answer these questions honestly and
24 completely.

25 The purpose of this proceeding is to make sure that

1 you understand your rights, to decide whether you are pleading
2 guilty of your own free will, and to make sure that you are
3 pleading guilty because you are guilty and not for some other
4 reason.

5 Do you understand what I'm saying?

6 THE DEFENDANT: Yes.

7 THE COURT: If you don't understand any of the
8 questions or if you want any time to consult with your
9 attorney, please say so because it is important that you
10 understand every question before you answer.

11 Can you please raise your right hand.

12 (Defendant sworn)

13 THE COURT: Do you understand that you are now under
14 oath and that if you answer any of my questions falsely, you
15 may be prosecuted for perjury based on any false answers?

16 THE DEFENDANT: Yes.

17 THE COURT: Ms. Laforest, can you please give me your
18 full name.

19 THE DEFENDANT: Tatiana Laforest.

20 THE COURT: And how old are you?

21 THE DEFENDANT: Thirty-eight.

22 THE COURT: How far did you go in school?

23 THE DEFENDANT: College, bachelor's.

24 THE COURT: Can you read and write in English?

25 THE DEFENDANT: Yes.

1 THE COURT: Are you currently or have you recently
2 been under the care of a doctor, psychiatrist, or psychologist
3 for any reason?

4 THE DEFENDANT: No.

5 THE COURT: Do you have any condition that affects
6 your ability to see or hear?

7 THE DEFENDANT: No.

8 THE COURT: Any condition that affects your ability to
9 think or to understand or to make judgments or decisions on
10 your own behalf?

11 THE DEFENDANT: No.

12 THE COURT: In the last 24 hours, have you taken any
13 drugs, medicine, or pills that affect your mental processes or
14 consumed any alcohol?

15 THE DEFENDANT: No.

16 THE COURT: Is your mind clear today?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you understand what is happening in
19 this proceeding?

20 THE DEFENDANT: Yes.

21 THE COURT: Does either attorney have any objections
22 to Ms. Laforest's competence to plead at this time?

23 MR. HORTON: No. Thank you, your Honor.

24 MR. GOLDBERG: No, your Honor.

25 THE COURT: Ms. Laforest, have you received a copy of

1 the indictment that contains the charges against you?

2 THE DEFENDANT: Yes, I have.

3 THE COURT: Have you read it?

4 THE DEFENDANT: Yes, I have.

5 THE COURT: Do you want me to read it to you?

6 THE DEFENDANT: No. Thank you.

7 THE COURT: Do you understand what it says you did?

8 THE DEFENDANT: Yes.

9 THE COURT: Have you had time to talk to your attorney
10 about the charges and about how you wish to plead today?

11 THE DEFENDANT: Yes.

12 THE COURT: Has your attorney told you the
13 consequences of pleading guilty?

14 THE DEFENDANT: Yes.

15 THE COURT: Are you satisfied with your attorney's
16 representation of you?

17 THE DEFENDANT: Yes.

18 THE COURT: Ms. Laforest, I am going to explain
19 certain constitutional rights that you have. These are rights
20 that you will be giving up if you enter a guilty plea. Please
21 listen carefully to what I am about to say. And if you do not
22 understand something, stop me. And your attorney or I will
23 explain the issue more fully.

24 Under the Constitution and the laws of the
25 United States, you have a right to plead not guilty to the

charges contained in the indictment.

Do you understand that?

THE DEFENDANT: Yes.

THE COURT: And if you plead not guilty, you would be entitled under the Constitution to a speedy and public trial by a jury of those charges. At that trial, you would be presumed innocent, and the government would be required to prove you guilty beyond a reasonable doubt before you could be found guilty, and you could not be convicted until a jury of 12 agreed unanimously that you were guilty beyond a reasonable doubt.

Do you understand that?

THE DEFENDANT: Yes.

THE COURT: If you decided to go to trial, at that trial and at every stage of your case, you would have the right to be represented by an attorney. And if you could not afford one, an attorney would be appointed to represent you at the government's expense.

Even if you retain private defense counsel, if you ran out of money, an attorney would be appointed to continue to represent you. You would be entitled to an attorney all the way through trial and not just for the guilty plea. So your decision to plead guilty should not depend on whether you can afford to hire an attorney.

Do you understand that?

1 THE DEFENDANT: Yes, I do.

2 THE COURT: During a trial, the witnesses for the
3 prosecution would have to come to court and testify in your
4 presence where you could see and hear them and your lawyer
5 could cross-examine those witnesses and, if you wanted, your
6 lawyer could offer evidence on your behalf. You would be able
7 to use the court's power to compel witnesses to come to court
8 to testify, even if they did not want to come.

9 Do you understand that?

10 THE DEFENDANT: Yes, I do.

11 THE COURT: At a trial, you would have the right to
12 testify in your own defense if you wanted to, but you would
13 also have the right not to testify. And if you chose not to
14 testify, that could not be used against you in any way. No
15 inference or suggestion of guilt would be permitted from the
16 fact that you did not testify.

17 Do you understand that?

18 THE DEFENDANT: Yes, I do.

19 THE COURT: If you were convicted at trial, you would
20 have the right to appeal that verdict to a higher court.

21 Do you understand that?

22 THE DEFENDANT: Yes, I do.

23 THE COURT: As I said before, you have the right to
24 plead not guilty. Even right now, even as you sit here today
25 for the purpose of entering a guilty plea, you have the right

1 to change your mind, persist in your not guilty plea, and go to
2 trial. But if you do plead guilty and if the court accepts
3 your plea, you will give up the right to a trial and all of the
4 other rights that go with it that I have just described.

5 If you plead guilty, there will be no trial. All that
6 will remain to be done will be to impose a sentence. You and
7 the government will have a chance to make arguments about what
8 sentence you should get, but there will not be any further
9 trial to determine whether you are guilty or not guilty of the
10 charges to which you pled guilty.

11 Do you understand that?

12 THE DEFENDANT: Yes, I do.

13 THE COURT: Do you understand that the decision as to
14 the appropriate sentence in your case will be entirely up to
15 the sentencing judge and that the judge will be limited only by
16 what the law requires? This means that even if you are
17 surprised or disappointed by your sentence, you will still be
18 bound by your guilty plea.

19 Do you understand that?

20 THE DEFENDANT: Yes, I do.

21 THE COURT: Finally, if you do plead guilty, you are
22 also giving up the right not to incriminate yourself and I will
23 ask you questions about what you did in order to satisfy myself
24 that you are actually guilty. By pleading guilty, you will be
25 admitting your factual as well as your legal guilt.

1 Do you understand that?

2 THE DEFENDANT: Yes, I do.

3 THE COURT: Ms. Laforest, Count Two of the indictment
4 charges that you committed wire fraud in violation of Title 18
5 Section 1343 of the United States Code. I'm going to ask
6 Mr. Horton to state the elements of the charge. The elements
7 are the things that the government would have to prove beyond a
8 reasonable doubt if you went to trial.

9 MR. HORTON: Thank you, your Honor.

10 To establish a violation of Title 18 U.S. Code Section
11 1343 at trial, the government would be required to prove the
12 following elements beyond a reasonable doubt:

13 First, that there was a scheme or artifice to defraud
14 or obtain money or property by materially false and fraudulent
15 pretenses, representations, or promises;

16 Second, that the defendant knowingly and willfully
17 participated in the scheme or artifice to defraud with
18 knowledge of its fraudulent nature and with specific intent to
19 defraud; and

20 Third, that in the execution of that scheme, the
21 defendant used or caused the use of interstate wires.

22 The government would also be required to prove venue
23 by a preponderance of the evidence.

24 THE COURT: Thank you.

25 Ms. Laforest, I'm going to tell you the maximum

possible penalty for that crime. The maximum means the most that could possibly be imposed. It does not mean that that is what you will necessarily receive. But by pleading guilty, you are exposing yourself to the possibility of receiving any combination of punishments up to the maximum that I am about to describe.

Do you understand that?

THE DEFENDANT: Yes, I do.

THE COURT: The maximum term of imprisonment for the crime charged in Count Two is 20 years which could be followed by up to three years of supervised release.

If your sentence includes supervised release, you will be subject to supervision by the probation department after you are released from prison. If you violate any condition of that supervised release, the court can revoke the term of supervised release previously imposed and return you to prison without giving you any credit for time previously served on post-release supervision.

In addition to these restrictions on your liberty, the maximum possible punishment for the crime charged in Count Two also includes financial penalties.

The maximum allowable fine is \$250,000 or twice the profits of the criminal activity or twice what someone other than yourself lost because of the criminal activity, whichever is greater. You can also be required to pay restitution to any

1 victims of the crime in an amount that the court decides is
2 required to compensate them for any injuries.

3 In addition, by pleading guilty, you will admit the
4 forfeiture allegations in the indictment and agree to forfeit
5 any property within the scope of 18 U.S. Code Section 981 and
6 28 U.S. Code Section 2461. I am also required by law to tell
7 you that there is an additional special assessment or fine of
8 \$100 that is required to be imposed on each count of
9 conviction.

10 Ms. Laforest, you told me a few minutes ago that you
11 are a United States citizen. The reason I asked you that
12 question was that if you are not a citizen, your guilty plea
13 would likely have adverse consequences for your ability to
14 remain in or return to the United States, including removal,
15 deportation, denial of citizenship, and denial of admission to
16 the United States in the future.

17 Your removal or deportation could be mandatory. And
18 if that did happen, you would still be bound by your
19 guilty plea. That is, you would not be able to withdraw it,
20 regardless of any advice you received from your counsel or
21 others regarding the immigration consequences of your plea.

22 Do you understand that?

23 THE DEFENDANT: Yes, I do.

24 THE COURT: Ms. Laforest, has anyone threatened you or
25 coerced you in any way in an effort to get you to plead guilty?

1 THE DEFENDANT: No.

2 THE COURT: I understand that there is a written plea
3 agreement between you and the government. It is contained in a
4 letter dated January 26, 2023, addressed to Mr. Goldberg, your
5 attorney, which appears to have your signature on the last
6 page.

7 Did you sign this plea agreement?

8 THE DEFENDANT: Yes, I did, your Honor.

9 THE COURT: Did you read it before you signed it?

10 THE DEFENDANT: Yes, I did.

11 THE COURT: Did you discuss it with your attorney?

12 THE DEFENDANT: Yes, I did.

13 THE COURT: Do you understand its terms?

14 THE DEFENDANT: Yes, I do.

15 THE COURT: Has anyone promised you or offered you
16 anything in order to get you to plead guilty, other than what
17 is in this plea agreement?

18 THE DEFENDANT: No.

19 THE COURT: It appears that you and the government
20 have reached agreement regarding the appropriate calculation of
21 your sentence under a part of our law known as the sentencing
22 guidelines.

23 Is that correct?

24 THE DEFENDANT: Yes.

25 THE COURT: That agreement is that the appropriate

1 guideline sentencing range is from 27 to 33 months and the
2 appropriate monetary fine is from \$10,000 to \$100,000. Under
3 this agreement, neither you nor the government is allowed to
4 argue to the sentencing judge for a calculation that is
5 different than the one in this agreement.

6 Do you understand that in this agreement, you have
7 also limited your right to appeal from any sentence that may be
8 imposed?

9 Specifically, do you understand that as long as
10 Judge McMahon sentences you to a prison term of no longer than
11 33 months, any lawful sentence of supervised release, a fine of
12 no greater than \$100,000, you are giving up your right to
13 challenge your sentence, whether by direct appeal, writ of
14 habeas corpus, or otherwise?

15 Do you understand that?

16 THE DEFENDANT: Yes, I do.

17 THE COURT: Do you also understand that under the
18 terms of this plea agreement, you are waiving any and all
19 rights to withdraw your plea or attack your conviction or
20 sentence, either on direct appeal or collaterally, on the
21 grounds that the government has failed to produce any discovery
22 material, other than information establishing your factual
23 innocence, including Jencks Act material, material pursuant to
24 *Brady v. Maryland*, and impeachment material pursuant to *Giglio*
25 *v. The United States* that has not already been produced as of

1 the date of the signing of your plea agreement?

2 That means that you will not be able to complain about
3 that or withdraw your guilty plea on that basis.

4 Do you understand that?

5 THE DEFENDANT: Yes, I do.

6 THE COURT: Ms. Laforest, do you understand that the
7 terms of this plea agreement, including any calculation related
8 to sentencing, are not binding on the sentencing judge?

9 The sentencing judge may reject those calculations and
10 could impose a more severe sentence than you expect without
11 permitting you to withdraw your plea of guilty. The sentencing
12 judge is required to make her own independent calculation of
13 the appropriate sentencing range under the sentencing
14 guidelines and will also have the discretion to give you a
15 sentence below or above that range, up to the maximum sentence
16 that I told you about earlier.

17 In addition to the guidelines and any possible
18 departures from those guidelines, the sentence judge will also
19 consider the factors set forth in 18 U.S. Code Section 3553(a).
20 In other words, the sentencing judge will pronounce whatever
21 sentence she believes is the appropriate sentence for you, even
22 if that sentence is different from the one in your plea
23 agreement.

24 Do you understand that?

25 THE DEFENDANT: Yes, I do.

1 THE COURT: The Court will also consider a presentence
2 report prepared by the probation department in advance of your
3 sentencing. Before you are sentenced, you and the government
4 will have an opportunity to challenge the facts reported by the
5 probation officer.

6 Do you understand that there is no parole in the
7 federal system? If you are sentenced to prison, you will not
8 be released on parole.

9 Do you understand that?

10 THE DEFENDANT: Yes, I do.

11 THE COURT: Before I go on, let me ask either attorney
12 if there are any other provisions of the plea agreement that
13 you would like me to go over with Ms. Laforest.

14 MR. HORTON: No. Thank you, your Honor.

15 MR. GOLDBERG: No. Thank you, your Honor.

16 THE COURT: Ms. Laforest, aside from what is in the
17 plea agreement itself, have any promises been made to you to
18 influence you to plead guilty?

19 THE DEFENDANT: No.

20 THE COURT: Have any promises been made to you
21 concerning the actual sentence you will receive?

22 THE DEFENDANT: No.

23 THE COURT: Now that you've been advised of the
24 charges against you, the possible penalties you face, and the
25 rights you are giving up, is it still your intention to plead

1 guilty to Count Two of the indictment?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Is your plea voluntary and made of your
4 own free will?

5 THE DEFENDANT: Yes, it is.

6 THE COURT: Ms. Laforest, with respect to Count Two,
7 how do you plead? Guilty or not guilty?

8 THE DEFENDANT: Guilty.

9 THE COURT: Can you please tell me in your own words
10 what you did that makes you guilty of the crime.

11 THE DEFENDANT: From 2013 up to and including 2020, in
12 the Southern District of New York, I participated with others
13 in an embezzlement scheme in that I charged, via credit card,
14 purchases for my personal use that were then paid by a bank
15 account from an electrical company that my mother was working
16 for.

17 The purchases were not authorized or known by the
18 company. Electronic bank payment were made to my charge
19 account from my mother's electrical corporation's bank account
20 through telephone and the internet.

21 THE COURT: Ms. Laforest, did your attorney help you
22 prepare the testimony you just gave?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Do you adopt those words as your own?

25 THE DEFENDANT: Yes.

1 THE COURT: Is everything you just told me true?

2 THE DEFENDANT: Yes, it is.

3 THE COURT: Did you know at the time that you did
4 these acts that what you were doing was wrong?

5 THE DEFENDANT: Yes, I did.

6 THE COURT: Mr. Horton, do you believe that there is a
7 sufficient factual predicate for a guilty plea?

8 MR. HORTON: Yes, your Honor. Had this matter gone to
9 trial, the government would have introduced, among other
10 things, the following evidence:

11 Witness testimony and records from the victim company
12 regarding Sabitri Laforest's role as the company's controller;
13 her access to and her unauthorized use of the victim's bank
14 account to embezzle \$17.1 million; financial records showing
15 that \$17.1 million in charges over seven years on a charge card
16 account opened by Tatiana Laforest was paid off using the
17 victim company's bank account; evidence that Tatiana and Sanjay
18 are the adult children of Sabitri and Garry Laforest who were
19 also cardholders on Tatiana's charge card account; evidence
20 from business records and from the defendant's email and iCloud
21 accounts showing the charges the defendants incurred on the
22 charge card account and paid off using the victim company's
23 money, including millions of dollars charged to Sanjay's
24 restaurants which Tatiana helped process, as well as using the
25 charge card to make payments for the restaurant's food and rent

1 expenses; evidence from the defendant's email accounts and
2 credit card companies that Sanjay and Tatiana Laforest lied to
3 multiple credit card processing companies about the nature of
4 the charges incurred using the family's charge card account at
5 the restaurants by creating false invoices so that the credit
6 card companies would process the transactions and send the cash
7 to Sanjay Laforest's business accounts; text messages showing
8 Tatiana Laforest discussing the charge card account with
9 Sabitri and discussing what to do after the scheme unraveled;
10 and charge card company records and bank surveillance videos
11 showing Tatiana Laforest withdrawing tens of thousands of
12 dollars in cash from ATMs around the tristate area using the
13 charge card as a debit card and incurring expenses of \$50 per
14 such ATM transaction.

15 As to venue, the government would introduce evidence
16 showing IP information that shows Sabitri Laforest paying off
17 the charge card bill from her office in Manhattan; testimony
18 and records from the charge card company showing that the
19 charge card company processes payments to its cards outside of
20 New York state.

21 And the government would introduce evidence showing
22 that venue is appropriate in the Southern District of New York
23 because the victim company was based in Manhattan, Sanjay's
24 restaurants were located in Manhattan, and Sabitri Laforest
25 paid the charge card bill from her office in Manhattan.

1 THE COURT: Thank you.

2 Ms. Laforest, on the basis of your responses to my
3 questions and my observations of your demeanor, I find that you
4 are competent to enter a guilty plea. I am satisfied that you
5 understand your rights, including your right to go to trial;
6 that you are aware of the consequences of your plea, including
7 the sentence that may be imposed; that you are voluntarily
8 pleading guilty; and that you have admitted that you're guilty
9 as charged in Count Two of the indictment. For these reasons,
10 I will recommend that Judge McMahon accept your plea.

11 Mr. Horton, I assume the government will order a copy
12 of the transcript and will submit it to Judge McMahon together
13 with any additional paperwork.

14 MR. HORTON: Yes, your Honor.

15 THE COURT: Has Judge McMahon set a sentencing date?

16 MR. HORTON: She has not.

17 THE COURT: Ms. Laforest is out on bail?

18 MR. GOLDBERG: Yes, your Honor.

19 THE COURT: I'll set a control date for six months,
20 which is October 21, 2023. I will direct that the presentence
21 report be prepared.

22 Mr. Horton, can you deliver the case summary for
23 purposes of the presentence report to the probation department
24 within 14 days?

25 MR. HORTON: Yes, your Honor.

1 THE COURT: And, Mr. Goldberg, will you be able to be
2 interviewed by the probation department with Ms. Laforest
3 within 14 days?

4 MR. GOLDBERG: Yes, your Honor.

5 THE COURT: Thank you.

6 Are there any objections to continuing the present
7 bail?

8 MR. HORTON: No, your Honor.

9 THE COURT: Ms. Laforest, all of the conditions on
10 which you were released up until now continue to apply, and a
11 violation of those conditions can have serious consequences,
12 including revocation of bail and prosecution for bail jumping.

13 Do you understand that?

14 THE DEFENDANT: Yes, I do, your Honor.

15 THE COURT: Is there anything further from either
16 side?

17 MR. HORTON: No. Thank you, your Honor.

18 MR. GOLDBERG: No. Thank you, your Honor.

19 THE COURT: Thank you very much.

20 (Adjourned)

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